BILL NO. S-83-09-62

SPECIAL ORDINANCE NO. S-211-83

AN ORDINANCE AUTHORIZING THE CITY OF FORT WAYNE TO ISSUE ITS ECONOMIC DEVELOPMENT HEALTH CARE FACILITIES REVENUE BONDS REGENCY PLACE OF FORT WAYNE ISSUE (FHA INSURED PROJECT) SERIES A AND APPROVING OTHER ACTIONS IN RESPECT THERETO.

WHEREAS, the Fort Wayne Economic Development Commission has rendered its project report for the Health Quest Realty X Project regarding the financing of proposed economic development facilities for Health Quest Realty X, an Indiana General Partnership, and the Fort Wayne Plan Commission has commented favorably thereon; and

WHEREAS, the Fort Wayne Economic Development Commission conducted a public hearing on September 15, 1983, and also on October 6, 1983, and also adopted Resolutions on said dates, which Resolutions have been transmitted to this Common Council, finding that the financing of certain economic development facilities for Health Quest Realty X, an Indiana General Partnership, complies with the purposes and provisions of I.C. 36-7-12 and that such financing will be of benefit to the health and welfare of the City of Fort Wayne and its citizens, and further finding as follows:

a. The financing will not create an unjustified competitive disadvantage with other companies within the area;

b. The Financing will stimulate the local economy;

c. The financing will result in creation or retention of a significant number of jobs;

d. The Project being financed would not be undertaken without tax exempt financing; and

WHEREAS, the Fort Wayne Economic Development Commission has found that the proposed facilities will be located within an economic development target area as designated by this Common

Council and Ordinance No. S-115-83 adopted June 28, 1983, and will contribute significantly to the creation of 110 permanent new job opportunities over the next three years; and

WHEREAS, the Fort Wayne Economic Development Commission considered whether the proposed economic development facilities would have an adverse competitive impact upon any similar facilities and made special findings of fact contained in its Resolution and

WHEREAS, the Fort Wayne Economic Development Commission has approved and recommended the adoption of this form of Ordinance by this Common Council and has approved the substantially final forms of and has transmitted for approval by the Common Council the Trust Indenture, Financing Agreement, Servicing Agreement, and form of Bond; now therefore,

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA THAT:

SECTION 1. It is hereby found that the financing of the economic development facilities and health care facilities referred to in the Trust Indenture, the Financing Agreement and Servicing Agreement, approved by the Fort Wayne Economic Development Commission and presented to the Common Council, the issuance and sale of the health care facilities revenue bonds, the loan of the proceeds of the revenue bonds to Health Quest Realty X, an Indiana General Partnership, for the acquisition and construction of such facilities and the equipping thereof, the lease of said facilities to Fountainview Place Corporation of South Bend, an Indiana Corporation doing business as Regency Place of Fort Wayne pursuant to a Lease Agreement and the retention of certain management services for the Project by Health Quest Corporation, an Indiana Corporation, and the securing of said Bonds by a Mortgage Note and a Mortgage and further secured by the insurance of the advances of funds secured by the Mortgage and the Note by the

Secretary of Housing and Urban Development, acting through the Federal Housing Commissioner, all under the Trust Indenture, Financing Agreement and Servicing Agreement, which agreements will be assigned by the City of Fort Wayne to the Trustee pursuant to the Trust Indenture, complies with the purposes and provisions of I.C. 36-7-12 and will be of benefit to the health and welfare of the City of Fort Wayne and its citizens.

SECTION 2. The Common Council further finds that (a) the financing will not create an unjustified competitive disadvantage to other companies within the area; (b) the financing will stimulate the local economy; (c) the financing will result in the creation or retention of a significant number of jobs; and (d) the project would not be undertaken without tax exempt financing.

SECTION 3. The Common Council further finds that the proposed facilities will be located within an economic development target area as designated by this Common Council and Ordinance No. S-115-83 adopted June 28, 1983, and will contribute significantly to the creation of 110 permanent new job opportunities over the next three years.

SECTION 4. This Common Council has considered whether the proposed economic development facilities will have an adverse competitive impact on any similar facilities, and now makes the following special findings of fact based upon the evidence presented to the Fort Wayne Economic Development Commission and this Common Council:

(1) The facilities in question require a Certificate of Need from the State of Indiana, which Certificate of Need will not be issued unless there has been an administrative determination that the facilities are necessary and will not compete adversely with other similar facilities;

(2) The location of the Project is in an area where no other

similar facilities are located;

(3) No members of the public objected to the financing of the proposed economic development facilities; and

(4) The proposed economic development facilities will not have an adverse competitive impact on any similar facilities already under construction or in operation in the same market area in the City of Fort Wayne, Indiana.

SECTION 5. The substantially final forms of the Trust Indenture, Financing Agreement, Servicing Agreement, and form of Bond, approved by the Fort Wayne Economic Development Commission are hereby approved and all such documents (herein collectively referred to as the "Financing Agreement" referred to in I.C. 36-7-12), are hereby approved, and all such documents shall be incorporated herein by reference and shall be inserted in the minutes of the Common Council and kept on file by the Clerk. In accordance with provisions of I.C. 36-1-5-4 two (2) copies of all such documents are on file in the office of the Clerk for public inspection.

SECTION 6. The City of Fort Wayne shall issue its Health Care Facilities Revenue Bonds Regency Place of Fort Wayne Issue (FHA insured Project) Series A, the total principal amount of not to exceed Seven Million Five Hundred Thousand Dollars ($7,500,000.00) and maturing not later than thirty years after the date of issuance for the purpose of procuring funds to pay the costs of acquisition, construction and equipping of the economic development and health care facilities as more particularly set out in the Trust Indenture, Financing Agreement, and Servicing Agreement, incorporated herein by reference, which bond will be payable as to principal, premium, if any, and interest from the note payments made by Health Quest Realty X, an Indiana General Partnership, under the Trust Indenture, Financing Agreement, and Servicing Agreement, which payments are to be paid by the Fountainview Place Corporation of South Bend,

an Indiana Corporation doing business as Regency Place of Fort Wayne, under the terms of a Lease or as otherwise provided in the above-described documents. The Bonds are issued in fully registered form in the total principal sum of not to exceed Seven Million Five Hundred Thousand Dollars ($7,500,000.00), which bonds may be assigned and transferred pursuant to the Trust Indenture; payments of principal and interest are payable in lawful money of the United States of America to Blyth Eastman Paine Webber Health Care Funding, Inc. pursuant to the terms of the Servicing Agreement; the bonds are subject to redemption as set forth in Article 8 of the Trust Indenture. The bonds shall never constitute a general obligation of, an indebtedness of, or a charge against the general credit of the City of Fort Wayne, nor are the bonds payable in any manner from revenues raised by taxation.

SECTION 7. The Mayor, Clerk, and Controller are authorized and directed to sell said bonds to the purchasers thereof at a rate of interest not to exceed 15% and at a price of not less than 90% of the principal amount thereof.

SECTION 8. The Mayor, Clerk, and if necessary, the Controller, are authorized and directed to execute, attest, affix or imprint by any means the City seal to documents constituting the Financing Agreement approved herein on behalf of the City and any other documents which may be necessary or desirable to consummate the transaction, including the Bonds authorized herein. The signatures of the Mayor and Clerk on the Bonds may be either manual or facsimile signature. The Clerk is authorized to arrange for delivery of said Bonds to the Trustee upon payment for the Bonds being made by the purchasers thereof. The Mayor and Clerk are authorized to designate the total principal amount, maturity, price, and interest rate, at any time prior to delivery of the Bonds so long as they do not conflict with the terms of this Ordinance. The Bonds shall be dated as of the date of delivery.

SECTION 9. The provisions of this Ordinance and the Trust Indenture securing the Bonds shall constitute a contract binding between the City of Fort Wayne and the holder of the Economic Development Revenue Bonds (Health Quest Realty X Project), and after the issuance of said Bonds, this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holder so long as said Bonds or the interest thereon remains unpaid.

SECTION 10. This Ordinance shall be in full force and effect from and after its passage and signing by the Mayor.

COUNCILMAN

APPROVED AS TO FORM AND LEGALITY.

John J. Wernet, Attorney for the
Fort Wayne Economic Development Commission
Dated this 20th day of September, 1983.

Read the first time in full and on motion by GiaQuinta, seconded by Stier, and duly adopted, read the second time by title and referred to the Committee Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on ~~_____~~, the _____ day of _____, 19___, at 1 o'clock P .M.,E.S.T.

DATE: 9-27-83 Sandra E. Kennedy
CITY CLERK

Read the third time in full and on motion by GiaQuinta, seconded by Scruggs, and duly adopted, placed on its passage. PASSED ~~(LOST)~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	9		1		
BRADBURY	✓				
BURNS	✓				
EISBART			✓		
GiaQUINTA	✓				
SCHMIDT	✓				
SCHOMBURG	✓				
SCRUGGS	✓				
STIER	✓				
TALARICO	✓				

DATE: 10-11-83, Sandra E. Kennedy
- CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ZONING MAP)~~ ~~(GENERAL)~~ ~~(ANNEXATION)~~ (SPECIAL) ~~(APPROPRIATION)~~ ORDINANCE ~~(RESOLUTION)~~ NO. S-211-83 on the 11th day of October, 19 83.

ATTEST: (SEAL)

Sandra E. Kennedy
CITY CLERK

Ray A Talarico
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 12th day of October, 1983, at the hour of 11:20 o'clock A .M.,E.S.T.

Sandra E. Kennedy
CITY CLERK

Approved and signed by me this 18th day of October 19 83, at the hour of 3 o'clock P .M.,E.S.T.

Win Moses Jr.
WIN MOSES, JR. - MAYOR

BILL NO. S-83-09-62

REPORT OF THE COMMITTEE ON FINANCE

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS REFERRED AN ORDINANCE AUTHORIZING THE CITY OF FORT WAYNE TO ISSUE ITS ECONOMIC DEVELOPMENT HEALTH CARE FACILITIES REVENUE BONDS REGENCY PLACE OF FORT WAYNE ISSUE (FHA INSURED PROJECT) SERIES A AND APPROVING OTHER ACTIONS IN RESPECT THERETO

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE DO PASS.

MARK E. GiaQUINTA, CHAIRMAN

JAMES S. STIER, VICE CHAIRMAN

JANET G. BRADBURY

SAMUEL J. TALARICO

DONALD J. SCHMIDT

Concurred 10-11-83 Sandra E. Kennedy